

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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DAVID R. MANSFIELD : CIVIL ACTION NO. 11-268
 :
 v. : Philadelphia, Pennsylvania
 : March 30, 2011
ILONA KIRZHNER : 2:51 o'clock p.m.

MOTIONS HEARING
BEFORE THE HONORABLE JOHN R. PADOVA
UNITED STATES DISTRICT COURT JUDGE

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APPEARANCES:

For the Plaintiff: ANTHONY MARC GALLO, ESQUIRE
Fairlie & Lippy P.C.
1501 Lower State Road, Suite 304
North Wales, PA 19454

For the Defendant: RICHARD MOSBACK, ESQUIRE
Eckert Seamans Cherin & Mellott, LLC
Two Liberty Place, 22nd Floor
50 S. 16th Street
Philadelphia, PA 19102
-and-
MICHAEL C. HARTMERE, ESQUIRE
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Audio Operator: Mike Beck

Transcribed by: Geraldine C. Laws, CET

(Proceedings recorded by For The Record digital sound
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1 (The following occurred in open court at 2:51
2 o'clock p.m.)

3 THE COURT: This is Mansfield v. Kirzhner, Civil
4 Action No. 11-268. And we have on the Court's calendar this
5 afternoon plaintiff counsel's motion to withdraw. Mr. Gallo?

6 MR. GALLO: That's correct, your Honor. And my
7 client is present here today as well.

8 THE COURT: Okay, fine. Is there any objection, Mr.
9 Mansfield, to this motion?

10 PLAINTIFF MANSFIELD: No, your Honor.

11 THE COURT: Do you have counsel to replace Mr.
12 Gallo?

13 PLAINTIFF MANSFIELD: I have not selected that yet.

14 THE COURT: Okay. Is it your intention to do that?

15 PLAINTIFF MANSFIELD: Yes, your Honor.

16 THE COURT: Okay. Let's take a look at it.

17 (Pause.)

18 THE COURT: Mr. Mansfield, do you think that 30 days
19 would give you enough time to have counsel enter an
20 appearance?

21 PLAINTIFF MANSFIELD: Yes, your Honor.

22 THE COURT: We'll set that then as a time period for
23 that purpose.

24 Has an Answer been filed to the First Amended
25 Complaint?

1 MR. MOSBACK: No, your Honor.

2 THE COURT: Okay. We're going to grant the motion,
3 give plaintiff 30 days within which to have new counsel enter
4 an appearance. In the meantime, defendant will answer the
5 First Amended Complaint in a timely fashion. We'll set a
6 conference at a point in time more than 30 days from today.
7 By that time we'll have an Answer to the Complaint and we'll
8 have new counsel for the plaintiff.

9 MR. MOSBACK: Your Honor, may I ask a question?

10 THE COURT: Sure.

11 MR. MOSBACK: I just would like to know timely
12 fashion, going by the rules, 14 days?

13 THE COURT: We're going by the rules.

14 MR. MOSBACK: Okay, that's fine, thank you, your
15 Honor.

16 THE COURT: Right. Yes, we're going by the rules.

17 Okay, well, we've adjudicated the motion. Let's go
18 off the record now.

19 (Off the record from 2:54 p.m. until 3:40 p.m.)

20 THE COURT: Why don't we have defense counsel report
21 the agreement to dismiss this action.

22 MR. HARTMERE: Thank you, your Honor. As previously
23 discussed, an action is pending in the District Court of
24 Colorado in which Ms. Kirzhner is a plaintiff. The former
25 employer of Mr. Mansfield is the defendant in that Colorado

1 action. The understanding of all parties present today is
2 that a motion for protective order has been filed in the
3 District of Colorado. In sum and substance, that protective
4 order, if entered, would preclude the use of an audiotape
5 allegedly of a conversation between Ms. Kirzhner and Mr.
6 Mansfield. The protective order would prevent that use of
7 that tape in a deposition of Mr. Mansfield in the Colorado
8 action. It would not, however, preclude Ms. Kirzhner from
9 taking Mr. Mansfield's deposition in that action.

10 The agreement that I believe that we have all
11 reached today is that Ms. Kirzhner will agree to consent to
12 the entry of that protective order in the District of
13 Colorado action. In exchange Mr. Mansfield will withdraw the
14 instant lawsuit in its entirety.

15 THE COURT: Mr. Mansfield, do you understand the
16 terms of that agreement?

17 PLAINTIFF MANSFIELD: I do, your Honor. And there's
18 just two questions that I have.

19 THE COURT: Sure, sure.

20 PLAINTIFF MANSFIELD: The first question is that
21 there are actually three tape recordings, not just one. And
22 so the protective order sought protection against all three.

23 THE COURT: Okay.

24 PLAINTIFF MANSFIELD: I'm willing to withdraw the
25 suit entirety --

1 THE COURT: Provided that Ilona Kirzhner agrees to
2 the entry of the protective order that's sought in the -- is
3 it a Colorado action?

4 MR. HARTMERE: Yes, your Honor.

5 THE COURT: Do you have a caption of that?

6 (Pause.)

7 MR. HARTMERE: Yes, your Honor. The caption is
8 Kirzhner v. Silverstein, et al, Civil Action No. 09-CV-2858,
9 pending in the District of Colorado.

10 THE COURT: Okay. What we're going to do before you
11 leave is that we'll prepare a stipulation of dismissal on the
12 terms as set forth in the record of today's hearing for all
13 of you to sign. And then I'll approve it and then this
14 action will be dismissed pursuant to Rule 41(a)(1)(ii).
15 Okay? And that simply provides for a voluntary dismissal by
16 the plaintiff of this action without prejudice upon a written
17 stipulation of dismissal signed by all parties or their
18 counsel on their behalf.

19 Let's prepare that stipulation of dismissal.

20 Stand by and we'll bring it back.

21 ALL: Thank you, your Honor.

22 THE COURT: And then this matter is going to be
23 statistically closed.

24 (Proceedings concluded at 3:43 o'clock p.m.)

CERTIFICATION

I hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

s:/Geraldine C. Laws, CET
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Dated 4/4/11